

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America)	
v.)	
FRAVER EZEKIEL CLAY)	Case No: <u>3:93CR188-01</u>
)	USM No: <u>10682-058</u>
Date of Previous Judgment: <u>January 27, 1994</u>)	<u>Randolph M. Lee</u>
(Use Date of Last Amended Judgment if Applicable))	Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 40 months **is reduced to** 36.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>26</u>	Amended Offense Level: <u>25</u>
Criminal History Category: <u>II</u>	Criminal History Category: <u>II</u>
Previous Guideline Range: <u>70</u> to <u>87</u> months	Amended Guideline Range: <u>63</u> to <u>78</u> months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☒ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (explain): The noted sentence reduction is applicable to Counts One, Three, Four, Six and Seven, the sentences for each such count to be served concurrently with Count One, since the Counts were grouped under USSG §3D1.1 and §3D1.4 for the sentencing calculations. These amended sentences for Counts One, Three, Four, Six and Seven do not affect the sentences previously imposed in Counts Two and Five regarding violations of 18 U.S.C. § 924(c), nor the sentence previously imposed in Count Eight.

III. ADDITIONAL COMMENTS

Upon release from imprisonment, and absent a residential plan accepted by the U.S. Probation Officer prior to release from incarceration, it is ordered that as a condition of supervised release the defendant shall submit to the local Residential Reentry Center for a period not to exceed 90 days, with work release, at the direction of the U.S. Probation

Except as provided above, all provisions of the judgment dated January 27, 1994 shall remain in effect.

IT IS SO ORDERED.

Order Date: April 24, 2009

Effective Date: _____
(if different from order date)



Frank D. Whitney
United States District Judge

